BORA LASKIN LAW LIBRARY
3 1761 10631769 6

CONSTITUTIONAL LAW

CASES AND MATERIALS

VOLUME III

Patrick Macklem
Faculty of Law
University of Toronto

1990-91

Prepared with the assistance of Rita Vasilopoulos and Heather Gamester.

LAW LIBRARY

JAN 8 1991

FACULTY OF LAW
UNIVERSITY OF TORONTO

FACULTY OF LAW LIBRARY
UNIVERSITY OF TORONTO

CONSTITUTIONAL LAW

CASES AND MATERIALS

VOLUME III

Patrick Macklem
Faculty of Law
University of Toronto

1990-91

Prepared with the assistance of Rita Vasilopoulos and Heather Gamester.

Digitized by the Internet Archive
in 2018 with funding from
University of Toronto

https://archive.org/details/constitutionalla03mack

VOLUME III

TABLE OF CONTENTS

Page

V. THE CHARTER OF RIGHTS AND FREEDOMS

1. Introduction

P. Russell, "The Political Purposes of the Canadian Charter of Rights and Freedoms" (1983), 61 Can. Bar Rev. 30..... 1

2. Interpretive Techniques

R. v. Big M Drug Mart, [1985] 1 S.C.R. 295..... 15

3. Application of the Charter

(a) Section 32

Operation Dismantle v. The Queen, [1985] S.C.R. 441..... 31

R.W.D.S.U. v. Dolphin Delivery, [1986] 2 S.C.R. 573..... 41

(b) Section 33

P. Weiler, "Rights and Judges in a Democracy: A New Canadian Version," [1984] U. Mich. J. Law Reform 51..... 55

Ford v. A.G. Quebec (1988), 54 D.L.R.(4th) 577 (S.C.C.)..... 59

4. Section 1

R. v. Oakes, [1986] 1 S.C.R. 103..... 66

Jones v. The Queen, [1986] 2 S.C.R. 284..... 72

Edwards Books and Art Ltd. v. The Queen, [1986] 2 S.C.R. 713..... 84

Note on R. v. Holmes (1988), 50 D.L.R.(4th) 680 (S.C.C.)..... 117

Page

5. Freedom of Expression

(a) Advertising

Re Klein and Law Society of Upper Canada (1985) 50 O.R.(2d) 118 (Div.Ct.)..... 119

Ford v. A.G Quebec, (1988), 54 D.L.R.(4th) 577 (S.C.C.)..... 135

Irwin Toy Ltd. v. A.G. Quebec (1989), 58 D.L.R.(4th) 577 (S.C.C.)..... 144

(b) Hate Literature

R. v. Keegstra, [1988] 5 W.W.R. 211 (Alta. C.A.).. 159

The Globe & Mail, April 5, 1989..... 175

R. v. Andrews (1988), 65 O.R.(2d) 161 (Ont. C.A.)..... 176

The Globe & Mail, March 23, 1989..... 187

(c) Pornography and Obscenity

Robin West, "Pornography as a Legal Text", Gubar & Hoff eds., For Adult Users Only: The Dilemma of Violent Pornography (1989) 108-129..... 188

R. v. Red Hot Video Ltd. (1985), 18 C.C.C.(3d) 1 (B.C.C.A.)..... 205

Note on Ontario Film and Video Appreciation Society v. Ontario Board of Censors (1983), 41 O.R.(2d) 583 (Div.Ct.); affirmed (1984) 45 O.R.(2d) 80 (C.A.).. 216

Note on Re Luscher and Deputy Minister, Revenue Canada, Customs and Excise (1985), 17 D.L.R.(4th) 503 (Fed.C.A.)..... 217

Note on Information Retailers Association of Metropolitan Toronto v. Municipality of Metropolitan Toronto (1985), 32 M.P.L.R. 49 (Ont. C.A.)..... 218

Roberto Unger, Passion: An Essay on Personality (1984)..... 219

(d) Prostitution

Reference Re ss. 193 and 195.1(1)(c) of the Criminal Code (1990), 77 C.R.(3d) 1 (S.C.C.)..... 225

Note on R. v. Stagnitta and R. v. Skinner (1990), 77 C.R.(3d) 84 (S.C.C.)..... 247

Jody Freeman, "The Feminist Debate Over Prostitution Reform: Prostitutes' Rights Groups, Radical Feminists and the (Im)possibility of Consent, 90 Berkeley Women's L.J 75(1990)..... 249

6. Freedom of Association

Reference re Public Service Employees Relations Act (Alberta Reference), [1987] 1 S.C.R. 313..... 256

Lavigne v. O.P.S.E.U. (1989), 56 D.L.R.(4th) 474 (Ont. C.A.)..... 284

B.C.G.E.U. v. A.G. B.C. (1988), 53 D.L.R.(4th) 1 (S.C.C.)..... 293

Fudge, "Labour, The New Constitution and Old Style Liberalism" in Labour Law Under the Charter (1988)..... 308

7. Abortion

C. MacKinnon, Feminism Unmodified: Discourses on Life and Law (1987), ch. 8..... 312

Morgentaler v. The Queen [1988] 1 S.C.R. 385..... 319

The Globe & Mail, July 28, 1988..... 363

Tremblay v. Daigle (1990), 62 D.L.R.(4th) 634 (S.C.C.).. 364

Donna Greschner, "Abortion and Democracy for Women" (1990), 35 McGill L.J. 633..... 378